

AG Contract No. KR98-2766TRN
ADOT ECS File No. JPA 98-205
Project: SR-101L Pima Freeway
Shea Boulevard to Loop 202
(Joint Use of FMS Conduits)

1999-009-005

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF SCOTTSDALE

THIS AGREEMENT is entered into 10 March, 1999, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF SCOTTSDALE, acting by and through its MAYOR and CITY COUNCIL (the "City").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-401 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the City.

3. The State and the City have identified the potential of sharing the State's Freeway Management System (FMS) trunkline conduits on Loop 101 (Price Freeway) from Shea Boulevard to Loop 202 (Red Mountain) traffic interchange. The City wishes to utilize one of the three 3-inch FMS conduits for the installation of fiberoptic cable, to transmit data and video, to be utilized in the area of transportation, rural metro, police, library, school, and other community-related activities, herein referred to as the "Project". The Project, estimated at \$805,000.00, involves the FMS conduits on the west side of Loop 101 only, all at City's expense.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

NO. 23026
Filed with the Secretary of State
Date Filed: 03/10/99

Petrey Gayles
Secretary of State

By Vicky J. Greenwood

II. SCOPE OF WORK

1. The City will:

a. Retain professional engineering consultant who will design and prepare plans and specifications, and such other documents and services required for construction bidding and construction of the Project, using the State's FMS guidelines and criteria. Submit to the State for review and comment.

b. Call for bids and award a contract to a qualified contractor who will install the required elements in accordance with the Standard Specifications and the current Phase 4 FMS Special Provisions to construct the Project(s), which include the following:

i. Install one 48-fiberoptic cable in one of the outer 3-inch FMS trunkline conduits from the Red Mountain T.I. to Shea Boulevard for the State's use.

ii. Install one 48-fiberoptic cable in one-inch innerduct in the center 3-inch conduit from McDowell Road to Shea Boulevard for City's use.

iii. Install an additional empty one-inch innerduct with pulling rope in the center 3-inch conduit from McDowell Road to Shea Boulevard for the State's future use.

iv. City's trunk shall remain separate from the State's other two FMS conduits.

v. City's trunk shall be designed to allow future distribution at all interchanges plus the Via Linda underpass.

vi. At some locations, it will be necessary to replace the existing No. 7 pullboxes with No. 9 pullboxes.

vii. City shall be responsible to blue-stake their line upon request.

viii. City's contractor shall conduct a field inventory of the existing conduits and pullboxes. During this process, a metal mandrel is pulled through each conduit.

Administer same and make all payments to the contractor.

c. Be responsible for all costs related to design and construction of the above elements of the Project, estimated at \$805,000.00.

d. Upon completion and acceptance of the Project by the parties hereto, be responsible for the maintenance of its communications elements installed within the State's conduit.

2. The State will:

a. Provide to the City, the State's FMS guidelines and criteria to be followed.

b. Participate in the design review of the communications elements to be undertaken by the City, to insure the State's FMS guidelines and criteria are implemented.

c. Participate in the field installation of the communication elements of the Project, as described above.

III. MISCELLANEOUS PROVISIONS

1. This agreement shall remain in force and effect until completion of the Project, provided however, that this agreement, may be cancelled at any time prior to the award of a Project construction contract, upon thirty (30) days written notice to the other party. Notwithstanding the preceding sentence, the City's obligations to maintain the communication elements of the Project shall be perpetual.

2. This agreement shall become effective upon filing with the Secretary of State.

3. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

4. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

5. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

6. Each party to this agreement will pay for and not seek reimbursement for its own personnel and administrative costs associated with this Project.

7. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Department of Transportation
Joint Project Administration
205 South 17 Avenue, MD 616E
Phoenix, AZ 85007


City of Scottsdale
Transportation Department
7447 E. Indian School Road, #205
Scottsdale, AZ 85251

8. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

CITY OF SCOTTSDALE

STATE OF ARIZONA
Department of Transportation

By 
SAM KATHRYN CAMPANA
Mayor

By 
VICTOR M. MENDEZ, P.E.
Deputy State Engineer

ATTEST

By 
SONIA ROBERTSON
City Clerk

RESOLUTION

BE IT RESOLVED on this 15th day of December 1998, that I, the undersigned MARY E. PETERS, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Intermodal Transportation Division, to enter into an agreement with the City of Scottsdale, for the purpose of defining responsibilities for the potential sharing of the State's Freeway Management System (FMS) trunk line conduits on Loop 101 (Price Freeway) from Shea Boulevard to Loop 202 (Red Mountain) traffic interchange, to transmit data and video, utilized in the area of transportation, rural metro, police, library, school and other community-related activities.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Deputy State Engineer for approval and execution.




DAVID R. ALLOCCO, P.E.
Assistant State Engineer
Engineering Technical Group

for MARY E. PETERS, Director

APPROVAL OF THE CITY OF SCOTTSDALE ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the CITY OF SCOTTSDALE and declare this agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement.

DATED this 27TH day of JANUARY, 1999.


Asst. City Attorney

RESOLUTION NO. 5239

A RESOLUTION OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE CITY TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF ARIZONA FOR THE PURPOSE OF JOINTLY USING THE FREEWAY MANAGEMENT SYSTEM CONDUIT (FMS) ALONG SR101L (PIMA FREEWAY) BETWEEN THE INTERCHANGE OF SR202L (RED MOUNTAIN) AND THE PIMA FREEWAY, AND THE SHEA INTERCHANGE AND THE PIMA FREEWAY.

WHEREAS, the Arizona Revised Statutes 11-951, et seq., provide that public agencies may enter into intergovernmental agreements for joint operation and cooperative action; and

WHEREAS, Section 3-1 of Article I of the Charter of the City of Scottsdale authorizes the City to enter into intergovernmental agreements with various public agencies.

NOW, THEREFORE, LET IT BE RESOLVED by the Council of the City of Scottsdale, Maricopa County, Arizona as follows:

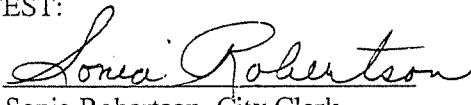
Section 1. Sam Kathryn Campana, Mayor, is hereby authorized and directed to execute, on behalf of the City of Scottsdale, an agreement with the State of Arizona for the purpose of jointly using the FMS conduit along the Pima Freeway.

PASSED AND ADOPTED by the Council of the City of Scottsdale, Maricopa County, Arizona, this 16th day of February, 1999.

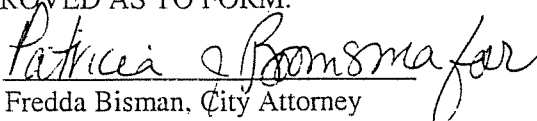
CITY OF SCOTTSDALE

By: 
Sam Kathryn Campana, Mayor

ATTEST:

By: 
Sonia Robertson, City Clerk

APPROVED AS TO FORM:

By: 
Fredda Bismar, City Attorney



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX 85007-2997

JANET NAPOLITANO
ATTORNEY GENERAL

TRN Main: (602) 542-1680

Direct: (602) 542-8837

Fax: (602) 542-3646

MAIN PHONE : 542-5025

TELECOPIER : 542-4085

INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR98-2766TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATE March 8, 1999.

GRANT WOODS

Attorney General

JAMES R. REDPATH

Assistant Attorney General

Transportation Section

JRR:et/19583

Enc.

AG Contract No. KR01-0212TRN
ADOT ECS File No. JPA 98-205
AMENDMENT ONE
Project: SR-101L Pima Freeway
Shea Boulevard to Loop 202
(Joint Use of FMS Conduits)
TRACS No.: SS529 01C

**AMENDMENT ONE
INTERGOVERNMENTAL AGREEMENT**

BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF SCOTTSDALE
#1999-009A-COS

THIS AGREEMENT is entered into 25 October, 2004, Amendment One to JPA 98-205, AG Contract No.: KR98-2766TRN, filed 10 March, 1999, with the Secretary of State under No. 23026, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF SCOTTSDALE, acting by and through its MAYOR and CITY COUNCIL (the "City").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-401 to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the City.

THIS AMENDMENT is to revise the Project limits of the original Project and to clarify the additional elements to the Project scope.

THEREFORE, this agreement is amended as follows:

Paragraphs 4 and 5 are added in full as follows:

4. The City and the State desire to revise the original Project limits on Pima Freeway (SR101L), to be approximately 1000 feet south of Via Linda Street continuing north along Loop 101 to the traffic interchange at Scottsdale Road and Loop 101, as described herein, collectively referred to as the "Project Limits".

5. The City desires to include the following elements to the Project scope: 1) The installation of a traffic camera located at the northeast corner of SR 101L and Shea Boulevard interchange, all at the City's expense. In addition, the City agrees the State will share in the operational use of said traffic camera, via the AZTech server; and 2) The installation of lateral conduits and pullboxes north of Shea Boulevard to Scottsdale Road, located at Cactus Road, Frank Lloyd Wright Boulevard, Bell Road, Princess Drive (crossing SW to NE), Hayden Road and Scottsdale Road (crossing N and S), estimated at \$95,000.00, all at the City's expense. The elements described above and including the elements in the existing agreement are herein collectively referred to in this Amendment as the "Project".

NO. 23026 *#01*
Filed with the Secretary of State
Date Filed: 10/25/04

Janice K. Brewer
Secretary of State

By: *Jim D. Greenwald*

II. SCOPE OF WORK

1. The City will:

Articles II. 1b, i and ii are revised to read 96 fiberoptic cable in lieu of 48 fiberoptic cable, collectively.

Articles II. 1b,vii, viii and II 1d. are replaced as follows:

vii. Be responsible for providing Blue Staking services for all proposed elements associated with this Project, utilizing State (ADOT) standards in place at the time of Blue Staking. Coordinate with the State, for the review and clearance of said documents including all traffic control and construction activities and all planned work by the City within the State's rights of way. All construction work to be performed in association with this Project within the State's rights of way shall be requested through the State's Phoenix Maintenance District Permit Office, prior to performing any such work.

viii. Prior to the installation of the fiberoptic cable within the State's rights of way, the City will provide to the State's VISION field office a list of materials to be used in association with this Project for concurrence and require its contractor, through the State's VISION field office, to conduct a field inventory and inspection of all existing conduits and pullboxes. During this process, a metal mandrel is pulled through each conduit.

d. Upon completion and acceptance of the Project, be responsible for the maintenance of the City's communication elements installed within the State's rights of way. All access to the fiberoptic cables and pullboxes shall be requested and coordinated through the State's Vision Field Office (through the State's Phoenix Construction District Office), prior to performing any work necessary by the City. It is understood and agreed to by the parties herein, that the State may require a representative to be present at the time of access.

Articles II. 1e, f, g, h, i, j and k are incorporated as follows:

e. Upon execution of this Amendment and receipt of an invoice from the State, remit \$95,000.00, as shown on Exhibit "A", attached hereto and made a part hereof, for the estimated costs associated with the City's addition of lateral conduits and pullboxes between Via Linda Boulevard and Scottsdale Road, at each of the following traffic interchanges: Cactus Road, Frank Lloyd Wright Boulevard, Bell Road, Princess Drive (crossing SW to NE), Hayden Road and Scottsdale Road (crossing N and S).

f. Upon the State's review and concurrence, request the State incorporate the addition of lateral conduits and pullboxes at the above referenced locations, to the State's ongoing construction of the SR 101L.

g. Provide professional engineering services, for the design and preparation of plans and specifications, following the State's FMS Design Guidelines for any work within the State's rights of way. Select a qualified contractor who will install the innerduct, fiber and other required elements (if any) in accordance with the Arizona Department of Transportation (ADOT) Standard Specifications, Plan Sheets and Special Provisions, for the City's extension of the fiberoptic system north of Shea Boulevard to Scottsdale Road.

h. Be responsible for any additional costs required to complete the Project, any contractor claims for extra compensation due to delays for whatever reason and comply with all applicable rules and regulations.

i. Prior to or upon completion and acceptance of the Project, provide a maintenance and action response plan to the State for concurrence, detailing the City's proposed maintenance and action response to any possible damage to the State's fiberoptic cable, connections or appurtenant devices, caused by the City or its agents. All documents are to be submitted to the attention of the State's Assistant State Engineer, Transportation Technology Group.

j. Upon completion and acceptance of the Project, invoice or reimburse the State for the difference between the estimated amount paid to the State (noted in II.1.a. above) and the actual costs plus up to 14% for construction engineering and administration costs of the Project, which include all costs associated with the State's participation in the design review of the communication elements undertaken by the City and the field installation inspection of the City's communication elements along the SR 101L, between Shea Boulevard and Scottsdale Road. It is understood and agreed to by the parties herein, that the State may require a representative to be present at the time of access.

k. Provide professional engineering services, for the design and preparation of plans and specifications following the State's FMS Design Guidelines for a closed circuit television camera (traffic camera), pole, conduit, hardware and associated equipment on the southwest corner of the Loop 101 and Via Linda. Select a qualified contractor who will install the closed circuit television camera (traffic camera), pole, hardware and associated equipment. After the warranty period has expired, the City will be responsible for camera maintenance, cleaning and further associated cost. Scottsdale will provide engineering, design and construction of the shared fiber optic plant, as stated above, which will provide the future communications link from this camera to the City of Scottsdale Traffic Management Center. The camera controls and video picture will be shared with ADOT via the AZTech server device.

l. Be responsible for repair of any damage to the fiber or conduit, attributable to the activities of the City or its agents.

Articles II. 2d, e and f are incorporated as follows:

2. The State will:

d. Upon execution of this Amendment, invoice the City \$95,000.00, as shown on Exhibit "A", for the total costs associated with the installation of the lateral conduits and pullboxes between Shea Boulevard and Scottsdale Road, as described in paragraph I. 5. herein. The conduit will be tied into the north-south FMS trunkline conduit at each location through the installation of a No. 7 pull-box, which extends along the west side of the SR 101L only. The conduit will terminate at the east and west project limits with a No. 7 pull-box.

e. At its discretion, elect to participate in the field installation inspection of the City's communication elements along SR 101L.

f. Through its Vision Field Office, coordinate with the City prior to the City performing any work necessary within the State's rights of way. It is understood and agreed to by the parties herein, that the State may require a representative to be present at the time of access

g. Be responsible for repair of any damage to the fiber or conduit, attributable to the activities of the State or its agents.

Article II. 3 is added as follows:

3. The State and the City agree:

a. Any additional traffic camera installations requested by the City, including maintenance, shall be subject to the provisions herein.

b. To share equally the cost to repair any damage incurred to the fiber or conduit in the case in which the fault or source of the damage cannot be determined.

III. MISCELLANEOUS PROVISIONS related to this Amendment are as follows:

Paragraphs 2 and 7 are revised to read:

2. This agreement shall remain in force and effect until completion of the Project, and payment of funds, provided however, that this agreement, except any provisions herein for maintenance, which shall be perpetual, may be cancelled upon thirty (30) days written notice to the other party.

7. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 South 17 Avenue, MD 616E
Phoenix, AZ 85007

City of Scottsdale
Transportation General Manager
Transportation Department
7447 E. Indian School Road, #205
Scottsdale, AZ 85251

VISION Field Office
4601 E. McDowell Rd.
Phoenix, AZ 85008-4507

Phoenix Maintenance District Permit Office
2140 W. Hilton Avenue
Phoenix, AZ 85009

Traffic Operation Center-Transportation
Technology Group
2302 W Durango
Phoenix, AZ-85009

Paragraphs 9 and 10 are incorporated as follows:

9. This agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona, and incorporated herein by reference regarding "Non-Discrimination".

10. Non-Availability of Funds: Every payment obligation of the State under this contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this contract, this contract may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

11. Attached hereto and incorporated herein are the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

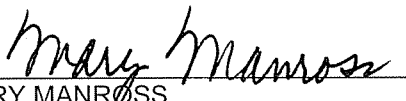
Except as amended herein, all other terms and conditions of the original Agreement remain in full force and effect.

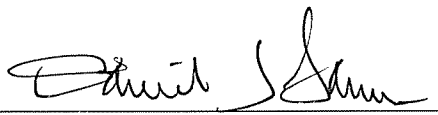
IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

CITY OF SCOTTSDALE

STATE OF ARIZONA

Department of Transportation

By 
MARY MANROSS
Mayor

By 
DANIEL S. LANCE, P. E.
Deputy State Engineer

ATTEST

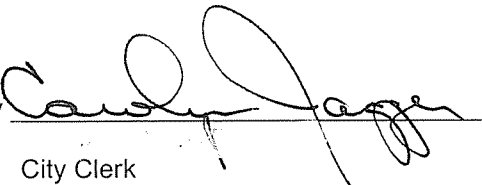
By 
Candy Jager
City Clerk

EXHIBIT 'A-1'

AMENDMENT ONE

JPA 98-205

Below are the City's costs of the additional lateral conduits and pull-boxes to be incorporated into the State's existing construction project, from Shea Boulevard to Scottsdale Road at each of the following traffic interchanges: Cactus Road, Frank Lloyd Wright Boulevard; Bell Road; Princess Drive (crossing SW to NE); Hayden Road and Scottsdale Road (crossing N and S) on the SR 101L Project.

ITEM	DESCRIPTION	UNIT	QTY	UNIT PRICE	EXT. AMT.
7320200	Electrical Conduit (75mm) (Concrete encased)	M	2409.17	\$32.00	\$77,093.44
7320451	Pull Box (No. 7 (FMS) (w/ Extension)	Ea.	16	390.00	\$6,240.00
SUB TOTAL					<u>\$83,333.44</u>
Estimated Construction Engineering and Administration @ 14%					\$11,666.68
TOTAL					\$95,000.00

APPROVAL OF THE CITY OF SCOTTSDALE ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, TRANSPORTATION PLANNING DIVISION, and CITY OF SCOTTSDALE and declare this agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement.

DATED this 30th day of August, 2004.

Andrew Deneh, asst. city atty. for
City Attorney, Joseph Bertoldo

RESOLUTION NO. 6529

A RESOLUTION OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING THE CITY TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH ARIZONA DEPARTMENT OF TRANSPORTATION FOR THE PURPOSE OF REVISING THE EXISTING AGREEMENT TO INSTALL FIBER CABLE IN FREEWAY MANAGEMENT SYSTEM CONDUIT.

WHEREAS, the Arizona Revised Statutes 11-951, et.seq., provide that public agencies may enter into intergovernmental agreements for joint operation or cooperative action; and

WHEREAS, Section 3-1 of article 1 of the Charter of the City of Scottsdale authorizes the City to enter into intergovernmental agreements with various public agencies; and

WHEREAS, the City of Scottsdale desires to amend the existing agreement with the Arizona Department of Transportation (ADOT), approved in March 1999 to install fiber cable in existing ADOT conduit on the 101 freeway for the purpose of completing Scottsdale's Intelligent Transportation System fiber communications cable, to change the project location.

NOW, THEREFORE, LET IT BE RESOLVED by the Council of the City of Scottsdale, Maricopa County, Arizona as follows:

Section 1. Mary Manross, Mayor, is hereby authorized and directed to execute, on behalf of the City of Scottsdale, Amendment One to Intergovernmental Agreement No. 1999-009A-COS with ADOT, for the purpose of completing Scottsdale's fiber communications on the 101 Freeway.

PASSED AND ADOPTED by the Council of the City of Scottsdale, Maricopa County, Arizona, this 30th day of August, 2004.

CITY OF SCOTTSDALE

By: Mary Manross
Mary Manross, Mayor

ATTEST:

By: Carolyn Jagger
Carolyn Jagger, City Clerk

APPROVED AS TO FORM:

By: Joseph R. Bertoldo
Joseph R. Bertoldo, City Attorney



OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

TERRY GODDARD
ATTORNEY GENERAL

CIVIL DIVISION
TRANSPORTATION SECTION
WRITER'S DIRECT LINE: 602.542.8855

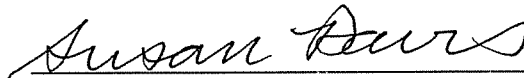
INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR01-0212TRN (**JPA 98-205, AMENDMENT ONE**), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: October 19, 2004

TERRY GODDARD
Attorney General



SUSAN E. DAVIS
Assistant Attorney General
Transportation Section